

The 10th March, 1995

No. 14/13/87-Lab./340.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal-cum-Labour Court, Ambala in respect of the dispute between the workman and the management of M/s Executive Engineer, Irrigation S. Y. L. Colony, Kurukshetra *versus* Ishwer Singh.

IN THE COURT OF SHRI S. R. BANSAL (ADDL. DISTT. & SESSIONS JUDGE),  
PRESIDING OFFICER, LABOUR COURT, AMBALA.

Reference No. 186 of 89

SHRI ISHWER SINGH SON OF SHRI BHOW RAM, VILLAGE AND POST OFFICE  
KAUL TEHSIL KAITHAL, DISTRICT KURUKSHETRA. .. *Workman.*

*versus*

(1) EXECUTIVE ENGINEER, IRRIGATION, S. Y. L. COLONY, KURUKSHETRA, AND  
(2) S. D. O., IRRIGATION, PUNDRI SUB-DIVISION, MUNDHARI, TEHSIL  
KAITHAL, DISTRICT KURUKSHETRA. .. *Management.*

*Present :*

Workman in person.

MR. Shri Raghubir Singh ADA.

#### AWARD

In exercise of the powers conferred by clause (c) of sub section I of section 10 of the Industrial Disputes Act, 1947 (for short called as the 'Act'), the Governor of Haryana referred the following dispute between the workman Shri Ishwar Singh and the management (1) Executive Engineer, Irrigation, S. Y. L. Colony, Kurukshetra and (2) S. D. O., Irrigation, Pundri Sub-Division, Mundhari, Tehsil, Kaithal, District Kurukshetra to this court for adjudication,—vide Haryana Government notification bearing no. 49672-77, dated the 6th November, 1989:—

"Whether the termination of the services of Shri Ishwar Singh is valid and justified? If not so, to what relief is he entitled?"

The workman served a demand notice dated 22nd August, 1989 under section 2-A of the Act. The conciliation proceedings were taken up by the Labour Officer-cum-Conciliation Officer. The same having failed, the appropriate government made the above reference to this court.

On receipt of the reference notices were issued to the workman as well as to the management. The workman appeared and submitted his statement of claim dated 22nd October, 1991. It was pleaded that he joined the management as beldar on 6th June, 1986 and remained there till 16th August, 1989 on a monthly salary of Rs. 600 and worked continuously for more than 240 days in a calendar year and his services were terminated after 16th August, 1989 without giving him any notice and without payment of retrenchment compensation. He demanded his reinstatement with continuity of service and back wages.

The management pleaded that the workman was appointed on daily wages without any appointment orders against a work as per requirement and that he never completed 240 days of service in a calendar year. No termination orders were ever passed. The workman was employed on contract basis and his services were no longer required after the expiry of period of contract. Other allegations were denied.

The workman submitted replication dated 29th January, 1992 controverting the allegations of the management in the written statement filed and reiterating those made in the claim statement. On the rival contentions of the parties the following points in issues were laid down for decision,—vide order dated 29th January, 1992:—

(1) Whether the termination of the services of Shri Ishwar Singh valid and justified?  
If not so, to what relief is he entitled? OPP

Parties led evidence. I have heard the representatives of the parties. My issuewise findings are as under:—

**Issue No. 1 :**

The workman submitted affidavit Ex. W-1 in which he stated that he served the management from 6th June, 1986 to 16 August, 1989 continuously and completed 240 days of service in a calendar year. The management filed Ex. M-1 affidavit of Executive Engineer, Kurukshetra Division (IB) Kurukshetra who stated that the workman worked for the following period:—

**1. V Pundri Sub Division (IB) Pundri :**

- (i) 14th July, 1987 to 30th August, 1987.,
- (ii) 1st April, 1988 to 31st May, 1988.
- (iii) 4th June, 1988 to 30th June, 1988.
- (iv) 4th July, 1988 to 31st August, 1988.

**2. IVth MTC. Jhansa Sub-Division (I.B.), Jhansa :**

- (i) 10th November, 1988 to 31st December, 1988.

**Jyotisar Sub-Division (I.B.), Jyotisar :**

- (i) 21st February, 1989 to 31st May, 1989.

The perusal of this affidavit shows that the management has admitted that the workman worked for a period of more than 240 days although not in one calendar year. The workman has filed his counter affidavit Ex. W-2 which shows that he is again working with the management since 8th August, 1991. Similarly Ex. W-3 affidavit of Ram Chander shows that the workman worked from 6th June, 1986 to January, 1992. The management has not produced muster roll/attendance Register to show that the workman did not work for a period of 240 days in a calendar year. He an Adverse presentation therefore, arises against the management, that had the record been produced the same would have gone against the management. Moreover, the denial of the management in the written statement filed that the workman served the period from 6th June, 1986 to 16th August, 1989 is not categorical and specific. The management has not disclosed the period for which the workman worked with them. This coupled with the affidavit brought on the file is sufficient to hold that the workman worked for a period of 240 days in a period of calendar year. It is an admitted fact that no prior notice was given nor any retrenchment compensation was paid. It is, thus, held that the termination of the services of workman is illegal and he is entitled to reinstatement with continuity of service. The workman shall also be entitled to back wages for the period of subsequent to his service demand notice. The finding on this issue is, therefore, returned, in favour of the workman and against the management.

**Relief :**

In the end, it is held that the workman is entitled to reinstatement with continuity of service and back wages for the period subsequent to his serving the demand notice.

The reference shall stand answered accordingly.

**S. R. BANSAL,**

Addl. District and Sessions Judge,  
Presiding Officer, Labour Court, Ambala.  
(Camp at Panchkula.)

Endst. No. 109, dated 25th January, 1995.

Forwarded, (four copies) to the Financial Commissioner and Secretary to Government of Haryana, Labour and Employment Department, Chandigarh as required under section 15 of the I.D. Act, 1947.

**S. R. BANSAL,**

Addl. District and Sessions Judge,  
Presiding Officer, Labour Court, Ambala.  
(Camp at Panchkula.)